

N° 3056.

AUTRICHE ET LETTONIE

Convention d'extradition et d'assistance judiciaire en matière criminelle. Signée à Varsovie, le 5 janvier 1932.

AUSTRIA AND LATVIA

Convention relating to Extradition and Judicial Assistance in Criminal Matters. Signed at Warsaw, January 5, 1932.

¹ TRADUCTION. — TRANSLATION.No. 3056. — CONVENTION² BETWEEN AUSTRIA AND LATVIA
RELATING TO EXTRADITION AND JUDICIAL ASSISTANCE IN
CRIMINAL MATTERS. SIGNED AT WARSAW, JANUARY 5, 1932.

French official text communicated by the Latvian Minister for Foreign Affairs. The registration of this Convention took place October 6, 1932.

THE REPUBLIC OF LATVIA and THE REPUBLIC OF AUSTRIA, having resolved to conclude a Convention relating to extradition and judicial assistance in criminal matters, have for this purpose appointed as their Plenipotentiaries :

THE GOVERNMENT OF THE LATVIAN REPUBLIC :

M. Olgerd GROSVOLD, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Latvia at Warsaw ;

THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC :

M. Robert Egon HEIN, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Austria ;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions :

Article 1.

The Contracting Parties undertake to deliver up to one another, under the conditions laid down by the present Convention, persons sentenced or charged or awaiting trial within the territory of the other State in consequence of the offences specified in Article 2.

Article 2.

Extradition shall be granted, in accordance with the rules hereinafter laid down, in respect of any wrongful act constituting an offence punishable by imprisonment for one year (*cietums*) under Latvian law, or by confinement (*Kerker*) under Austrian law or by a heavier penalty : nevertheless, extradition shall only be granted in the case of convicted persons, when such persons have been sentenced to six months' imprisonment or to a heavier penalty.

Extradition shall also be granted for attempts to commit any of the offences above mentioned, or for complicity therein (incitement, aid or abetment), provided that such attempt or complicity is punishable by a penalty as severe as that specified in paragraph 1.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at Warsaw, September 17, 1932. Came into force September 27, 1932.

Article 3.

In no case and under no circumstances shall the Contracting Parties be bound to hand over their own nationals, whether natural born or naturalised.

Furthermore, extradition shall not be granted :

(1) For political crimes and offences, or for acts relating to such offences, except such as partake principally of the character of offences against the ordinary law.

The State applied to shall decide whether any particular offence is non-extraditable under the provisions of this paragraph.

(2) For offences committed in the territory of the State applied to, or on board a vessel of its nationality.

(3) So long as the person claimed is being proceeded against for the same offence in the State from which extradition is requested.

(4) If, under the laws of the State applied to, proceedings or conviction have lapsed through prescription.

(5) If the person claimed has, within the State applied to, been definitely convicted or acquitted of the act for which extradition is requested, or has been reprieved or pardoned in respect thereof.

Note : Extradition may be refused if the case is dismissed.

(6) If under the laws of the applicant State proceedings can only be taken against the person applied for upon the request of a private party, and no such request has been made within the prescribed time.

(7) If the person applied for has been condemned to death in the State applied to, and such sentence has not within the prescribed period been commuted to another penalty.

Article 4.

If the offence in respect of which extradition is demanded was committed outside the territory of the applicant State, extradition shall only be granted in those cases in which the law of the State applied to would in similar circumstances allow proceedings against a similar act committed outside its own territory.

Article 5.

If proceedings are being taken against the person to be extradited in the country to which the request is addressed, or if the person is undergoing sentence for some other offence, extradition may not be granted until the proceedings have been completed, or the sentence served, or the penalty remitted. Nevertheless, provisional extradition may be allowed, provided the person in question is returned when the country making the request has completed the enquiry or legal proceedings.

Article 6.

No person surrendered by one of the Contracting Parties to the other may be proceeded against for any act committed prior to extradition other than that in respect of which extradition is requested, or be surrendered to a third State (save only in the case to which Article 10, paragraph 2, relates), unless special consent has been obtained for such surrender in accordance with Article 9, or unless the surrendered person after final acquittal, or release following the expiry of his full

sentence, or dismissal of the case, or remission of the penalty imposed, fails, though free of all let or hindrance, to leave the country within thirty days, or returns to it again.

During the said thirty days the surrendered person shall not be let or hindered in any manner from leaving the country, unless he commits a new offence.

No person surrendered by one of the Contracting Parties to the other may be proceeded against for the offence in respect of which his extradition was requested, before a Court which is only temporarily or in certain particular circumstances empowered to deal with such cases.

Article 7.

The requisition for extradition shall be made through the diplomatic channel. It shall be accompanied by the original or a certified copy either of a sentence pronounced by a Court or of a warrant of arrest issued by a Court or by a competent examining judge, and such judgment or warrant shall contain an exact description of the nature of the offence and shall indicate the date and place of its committal. The demand for extradition shall be accompanied by the text of the penal provisions in force in the applicant State and applicable to the offence in question and, whenever possible, by a description of the person claimed.

If the documents transmitted are incomplete, or if additional information is thought necessary in any particular, the applicant State may be called upon to furnish the information lacking.

In no case shall the applicant State be called upon to produce proof of the guilt of the person claimed.

Article 8.

Application for the consent to which Article 6 relates shall be made through the diplomatic channel.

It shall indicate the nature of the offence and the date and place of its committal, or shall be accompanied by documents furnishing such information. If the application has for its object the bringing of a charge against the person surrendered and the offence in question is such that, under the terms of the present Convention, extradition cannot be refused, authority shall be granted.

Article 9.

If the person whose extradition is demanded by one of the Contracting Parties under the provisions of the present Convention is at the same time claimed by one or more other States, the State applied to shall decide to which of the applicant States preference shall be given.

If in such case demands for extradition relate to different offences, the State applied to may, when according extradition, make it a condition that the person claimed shall on the expiry of his sentence be surrendered to another State.

Article 10.

Pending the formal requisition for extradition, a person may be arrested provisionally. The request for his arrest shall be made through the diplomatic channel. Nevertheless in urgent cases, and in particular when there is a fear that the person in question may seek to escape, the Public Prosecutor of the Court of Appeal at Riga (in the case of Latvia) or the Public Prosecutor of the competent tribunal and the Head of the Federal Police at Vienna (in the case of Austria) may transmit such request for provisional arrest to one another direct.

The request shall indicate the offence of which the person in question is accused, the date and place of its committal and, whenever possible, the nationality of the person and his description, and shall give notice of the existence of any sentence or warrant of arrest in accordance with the provisions of Article 7.

If the person in question has been provisionally arrested in accordance with the foregoing provisions, and the State applied to has not, within thirty days from the date on which the applicant State has received notice of the arrest, received through the diplomatic channel a formal requisition for the extradition of the person detained in custody, he may be set at liberty.

Article 11.

If the extradition has been granted, the applicant State shall be bound to have the person claimed surrendered within thirty days from the date on which it has received notice to the effect that extradition can be effected immediately. After this period has elapsed, the person in question may be set at liberty.

Extradition shall be effected at a point on the frontier of the State applied to which shall be indicated by the applicant State.

Article 12.

When a person has been arrested in accordance with the provisions of the present Convention, all articles in his possession at the time of his arrest which may be of any importance as furnishing proof of the offence with which he is charged, or the surrender of which might be demanded by the civil party, shall be seized, and, if extradition is granted, handed over to the authorities of the applicant State.

The State applied to may make any reservations with regard to such articles which it may deem necessary for the purpose of safeguarding the rights of third parties.

Article 13.

When a person is surrendered by one of the Contracting Parties to a third State, and has to be conveyed through the territory of the other Party, such person shall be allowed by the other Party to pass through its territory, provided that the offence in question is one for which the Party applied to would be bound to grant extradition. Application for the passage of such persons shall be made through the diplomatic channel and be accompanied by the original or a certified copy of the decree of extradition, or by a document containing a judgment or order in accordance with the provisions of Article 7. The same rules shall apply to persons surrendered to either of the Contracting Parties by a third State. Surrendered persons shall be conveyed under the supervision of an official in the service of the State whose territory is being crossed.

Article 14.

If during the hearing of a criminal case of such a nature as to make extradition permissible under the provisions of this Convention it is considered necessary by a judicial authority of one of the Contracting Parties that witnesses staying in the territory of the other Party should be heard, or that any other enquiries should be made, the request shall be made in writing through the diplomatic channel, and shall be granted in so far as this is permitted by the laws of the State in which the evidence is to be heard or the enquiry carried out.

The applicant State shall on request be informed in advance and in sufficient time of the date and place of the proposed action.

Article 15.

If during the hearing of a criminal case of such a nature as to make extradition permissible under the provisions of this Convention, it is considered necessary to produce articles capable of serving as proof of the crime in the possession of the authorities of the other State, the request to this effect shall be made through the diplomatic channel, and shall be granted unless there are special reasons for refusing it in any particular case, subject always to the right of the State applied to to make the production of the above-mentioned objects or documents conditional on an undertaking to return them.

Article 16.

Expenses incurred as the result of the measures for which the present Convention provides shall be borne by the State in whose territory such measures are taken, with the exception of the costs of crossing the territory of one of the Contracting Parties referred to in Article 13, which shall be borne by the applicant State.

Article 17.

The documents produced in the cases covered by the present Convention shall be drawn up in French, or accompanied by a certified translation in that language.

Article 18.

The present Convention shall be ratified in accordance with the provisions of the laws of the Contracting Parties, and shall come into force ten days after the exchange of instruments of ratification. It shall remain in force until the expiration of six months from the date on which either of the Contracting Parties denounces it.

In faith whereof the Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in duplicate at Warsaw, January 5, 1932.

(L. S.) (Signed) O. GROSVOLD.

(L. S.) (Signed) HEIN.